



[4830-01-p]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-100861-15]

RIN 1545-BM56

Allocation of Creditable Foreign Taxes

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section in this issue of the **Federal Register**, the IRS is issuing temporary regulations that provide guidance relating to the allocation by a partnership of foreign income taxes. Those temporary regulations are necessary to improve the operation of an existing safe harbor rule that is used for determining whether allocations of creditable foreign tax expenditures are deemed to be in accordance with the partners' interests in the partnership. The text of those temporary regulations published in this issue of the **Federal Register** also serves as the text of these proposed regulations.

DATES: Comments and requests for a public hearing must be received by **[INSERT DATE 90 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Send submissions to CC:PA:LPD:PR (REG-100861-15), room 5205, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-100861-15), Courier's desk, Internal Revenue

Service, 1111 Constitution Avenue, NW., Washington, DC 20224, or sent electronically, via the Federal eRulemaking Portal at www.regulations.gov (IRS REG-100861-15).

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Suzanne M. Walsh, (202) 317-4908; concerning submissions of comments, Oluwafunmilayo Taylor, (202) 317-5179 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background and Explanation of Provisions

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** contain amendments to the Income Tax Regulations (26 CFR part 1) which provide guidance relating to the allocation by a partnership of foreign income taxes. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations and these proposed regulations. The regulations affect partnerships and their partners.

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f), these regulations have been submitted to the Chief

Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under “ADDRESSES.” The Treasury Department and the IRS request comments on all aspects of the proposed rules. All comments will be available at www.regulations.gov or upon request. A public hearing will be scheduled if requested in writing by any person that timely submits comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Suzanne M. Walsh of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1--INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.704-1 is amended as follows:

1. In paragraph (b)(0):
 - i. Add an entry for §1.704-1 (b)(1)(ii)(b)(1).
 - ii. Revise the entries for (b)(4)(viii)(c)(1) through (4) and (b)(4)(viii)(d)(1).
2. Revise paragraphs (b)(1)(ii)(b)(1), (b)(1)(ii)(b)(3)(B), (b)(4)(viii)(a)(1), (b)(4)(viii)(c)(1), (b)(4)(viii)(c)(2)(ii) and (iii), (b)(4)(viii)(c)(3) and (4), (b)(4)(viii)(d)(1), and Example 25 of paragraph (b)(5).
3. Add Examples 36 and 37 to paragraph (b)(5).

The revisions read as follows:

§1.704-1. Partner's distributive share.

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(b) * * *

(0) [The text of the proposed amendments to §1.704-1(b)(0) is the same as the text of §1.704-1T(b)(0) published elsewhere in this issue of the **Federal Register**.]

(1) * * *

(ii) * * *

(b) Rules relating to foreign tax expenditures. (1) [The text of the proposed amendments to §1.704-1(b)(1)(ii)(b)(1) is the same as the text of §1.704-1T(b)(1)(ii)(b)(1) published elsewhere in this issue of the **Federal Register**.]

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(3) * * *

(B) [The text of the proposed amendments to §1.704-1(b)(1)(ii)(b)(3)(B) is the same as the text of §1.704-1T(b)(1)(ii)(b)(3)(B) published elsewhere in this issue of the **Federal Register**.]

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(4) * * *

(viii) * * *

(a) * * *

(1) [The text of the proposed amendments to §1.704-1(b)(4)(viii)(a)(1) is the same as the text of §1.704-1T(b)(4)(viii)(a)(1) published elsewhere in this issue of the **Federal Register**.]

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(c) Income to which CFTEs relate. (1) [The text of the proposed amendments to §1.704-1(b)(4)(viii)(c)(1) is the same as the text of §1.704-1T(b)(4)(viii)(c)(1) published elsewhere in this issue of the **Federal Register**.]

(2) * * *

(ii) [The text of the proposed amendments to §1.704-1(b)(4)(viii)(c)(2)(ii) is the same as the text of §1.704-1T(b)(4)(viii)(c)(2)(ii) published elsewhere in this issue of the **Federal Register**.]

(iii) [The text of the proposed amendments to §1.704-1(b)(4)(viii)(c)(2)(iii) is the same as the text of §1.704-1T(b)(4)(viii)(c)(2)(iii) published elsewhere in this issue of the **Federal Register**.]

(3) [The text of the proposed amendments to §1.704-1(b)(4)(viii)(c)(3) is the same as the text of §1.704-1T(b)(4)(viii)(c)(3) published elsewhere in this issue of the **Federal Register**.]

(4) [The text of the proposed amendments to §1.704-1(b)(4)(viii)(c)(4) is the same as the text of §1.704-1T(b)(4)(viii)(c)(4) published elsewhere in this issue of the **Federal Register**.]

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(d) Allocation and apportionment of CFTEs to CFTE categories. (1) [The text of the proposed amendments to §1.704-1(b)(4)(viii)(d)(1) is the same as the text of §1.704-1T(b)(4)(viii)(d)(1) published elsewhere in this issue of the **Federal Register**.]

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(5) * * *

Example 25. [The text of the proposed amendments to §1.704-1(b)(5) Example 24 is the same as the text of §1.704-1T(b)(5) Example 25 published elsewhere in this issue of the **Federal Register**.]

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Example 36. [The text of the proposed amendments to §1.704-1(b)(5) Example 36 is the same as the text of §1.704-1T(b)(5) Example 36 published elsewhere in this issue of the **Federal Register**.]

Example 37. [The text of the proposed amendments to §1.704-1(b)(5) Example 37 is the same as the text of §1.704-1T(b)(5) Example 37 published elsewhere in this issue of the **Federal Register**.]

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John Dalrymple,
Deputy Commissioner for Services and Enforcement.

[FR Doc. 2016-01948 Filed: 2/3/2016 8:45 am; Publication Date: 2/4/2016]